

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ASATA D. LOWE,

Petitioner,

v.

No.: 3:08-cv-489
(VARLAN/SHIRLEY)

JAMES FORTNER, Warden,

Respondent.

MEMORANDUM AND ORDER

This is a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court ordered the respondent to answer six of petitioner's allegations and dismissed the remaining allegations as frivolous; the Court also dismissed petitioner's claims for compensatory and punitive damages. The matter is before the Court on numerous non-dispositive motions filed by the parties.¹

Petitioner has filed a motion to vacate the order dismissing his remaining allegations and claims, and contends the Court lacked jurisdiction to do so. Petitioner's motion to vacate [Doc. 13] is **DENIED**.

Petitioner has filed a motion for an immediate hearing on his habeas petition. The motion [Doc. 15] is **DENIED**.

¹There is also pending the respondent's motion to dismiss, which the Court will address in a separate Memorandum after respondent has had the opportunity to respond to the amended petition as set forth in this Memorandum and Order.

Petitioner filed an amended petition [Doc. 14], a motion to file a second amended petition [Doc. 16], a motion to file a final amended petition [Doc. 22], and a motion to amend new petition [Doc. 23]. Petitioner then filed a motion to dismiss the foregoing amended petitions. Petitioner's motion to dismiss [Doc. 24] is **GRANTED**. The foregoing motions to amend the petition are **DENIED**.

Respondent filed a second motion for extension of time to respond to the petition, and petitioner filed a motion to object to further extensions; respondent then filed a motion to dismiss the petition. Respondent's motion for extension of time [Doc. 17] is **GRANTED NUNC PRO TUNC** as of March 2, 2009. Petitioner's motion to object to further extensions [Doc. 18] is **DENIED**.

Petitioner has filed two additional motions to amend his habeas corpus petition. In each of these, he reiterates the same claims contained in the original petition. He does, however, raise a new claim that the evidence was not sufficient to support the convictions. The motions to amend [Docs. 29 and 30] are **GRANTED** to the extent the respondent is **ORDERED** to respond, within thirty (30) days of the date of this Memorandum and Order, to petitioner's claim of insufficient evidence. The Clerk is **DIRECTED** to file the amended petitions and the motions are **DENIED** in all other respects.

E N T E R :

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE